

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,) NO. CR09-5088BHS
Plaintiff,)
vs.) ORDER GRANTING MOTION TO
STEVEN BRADLEY SMITH, and) CONTINUE TRIAL
BRADLEY A.G. GARDNER,)
Defendants.)

This matter comes before the Court on Defendant Smith's motion to continue trial. Dkt. 29. The Court held a telephone conference regarding this motion on March 17, 2009.

Defendant Smith filed a waiver of speedy trial rights through June 30, 2009. Dkt. 34. During the telephone conference, Defendant Gardner opposed Defendant Smith's motion to continue the trial date to June 30, 2009. Defendant Gardner did not express opposition to a trial date of May 19, 2009. However, he did not file a waiver of speedy trial rights.

The Court hereby finds that,

1. The ends of justice served by granting this continuance outweigh the best interests of the public and the Defendants in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

2. Proceeding to trial absent adequate time for the defense to prepare would result in a miscarriage of justice. 18 U.S.C. §3161(h)(7)(B)(i).

3. Defendant Smith's counsel requires time to explore all relevant issues and defenses applicable to the case, including additional discovery and investigation, which

1 would make it unreasonable to expect adequate preparation for pretrial proceedings or
2 for trial itself within the time limits established by the Speedy Trial Act and currently set
3 for this case. See 18 U.S.C. § 3161(h)(7)(B)(iv).

4 4. Taking into account the exercise of due diligence, a continuance is necessary
5 to allow the Defendant Smith the reasonable time for effective preparation of his
6 defense. 18 U.S.C. § 3161(h)(7)(B)(iv).

7 5. The exclusion from the Speedy Trial clock for Defendant Smith applies to co-
8 Defendants Gardner. 18 U.S.C. § 3161(h)(6).

9 Now, therefore it is hereby

10 **ORDERED** that the trial date is continued from April 7, 2009, to May 19, 2009.
11 The resulting period of delay is hereby excluded for speedy trial purposes under 18
12 U.S.C. § 3161(h)(8)(A) and (B).

13 Pretrial motions are due no later than April 10, 2009.

14 Trial briefs, witness lists, exhibit lists, any written stipulations, motions in limine,
15 proposed form of verdict, and proposed jury instructions shall be filed on or before May
16 7, 2009.

17 Pretrial conference shall be on May 11, 2009 at 10:00 a.m.

18 DATED this 20th day of March, 2009.

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BENJAMIN H. SETTLE
United States District Judge